

REPORT OF THE
OFFICE OF THE AUDITOR GENERAL
TO THE
JOINT LEGISLATIVE AUDIT COMMITTEE

294

AN UPDATED REVIEW
OF THE
HOMEMAKER-CHORE SERVICES PROGRAM

NOVEMBER 1976



Joint Legislative Audit Committee

OFFICE OF THE AUDITOR GENERAL

California Legislature



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November 8, 1976

The Honorable Speaker of the Assembly
The Honorable President pro Tempore of
the Senate
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members of the Legislature:

Your Joint Legislative Audit Committee respectfully submits the Auditor General's report on the Homemaker-Chore Services Program administered by the Department of Health.

If the Department of Health deliberately set out to avoid state eligibility for federal matching funds, it could not have succeeded more admirably. Assuming that professional health personnel are literate, then one can only conclude that they either will not read federal regulations, do not understand federal regulations, or are incompetent. These same professional personnel similarly have not responded to a chorus of recommendations in prior reports by the Auditor General, the Director of Finance, the Legislative Analyst and the Director of Health.

The Chief Executive and the Legislature may well consider shifting the professional health positions involved from protected civil service status to exempt status.

By copy of this letter, the Department of Health is requested to advise the Joint Legislative Audit Committee within sixty days of the status of implementation of the recommendations of the Auditor General that are within the statutory authority of the Department of Health.

The auditors are: Gerald A. Hawes, Robert Christophel, Richard V. Alexander and Lilia Molina.

Respectfully submitted,

MIKE CULLEN
Chairman

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SUMMARY

In June 1975, we concluded a management review of the Homemaker-Chore Services Program. Our audit report contained 13 recommendations for program improvement. The Joint Legislative Audit Committee asked us to update the information in our 1975 report and to report on the progress of the Department of Health.

We have seen recent improvements in the Department's effort to administer the program. The Department's extensive work plan--"Homemaker-Chore Management Improvement Project"--acknowledges many of the deficiencies highlighted in this report. At the same time, we are still very concerned about the continued failure to:

- monitor program administration
- adopt appropriate regulations
- use available federal funding.

The following report discusses these long-standing problems in detail.

INTRODUCTION

In response to a resolution of the Joint Legislative Audit Committee, we have updated our 1975 management review of the State Department of Health's administration of the Homemaker-Chore Services Program. This examination was conducted under the authority vested in the Auditor General by Section 10527 of the Government Code.

Prior to January 1974, in-home supportive services to aged, blind, and disabled adults were offered under both the attendant care and homemaker programs. Under the attendant care program, the recipients received a supplemental welfare payment and were expected to use this payment to contract with a third party for in-home supportive services. Homemakers provided similar services but were generally county employees whose salaries were paid with public assistance funds.

On January 1, 1974, the Social Security Amendments of 1972 (HR-1) replaced the state administered public assistance program with the federally administered Supplemental Security Income-State Supplemental Payment Program (SSI-SSP). This program provided for living allowances to aged, blind and disabled recipients; however, it did not provide for supplemental payments to recipients of attendant care services.

The Homemaker-Chore Services Program in California was created in 1973 to provide in-home supportive services to certain infirm aged, blind and disabled adults. The purpose of the program is to enable recipients to receive supportive services while remaining in their own homes, rather than being institutionalized or receiving other forms of care outside of their homes.

The program is administered by county welfare departments responsible for (1) assessing the need for services of applicants, (2) arranging for the delivery of needed services, and (3) periodically reassessing the continuing need for program services. The county welfare departments' activities are supervised by the State Department of Health which in turn operates under the general supervision of the U. S. Department of Health, Education, and Welfare. The State Department of Health is required to (1) establish standards, (2) formulate regulations, and (3) monitor county operations.

Approximately 74,000 of the 667,900 SSI-SSP recipients in California were receiving homemaker and chore services as of June 30, 1976. The homemaker-chore services caseload has increased by approximately 25 percent since March 1974.

Total program cost is shared 25 percent by state and local governments and 75 percent by the Federal Government, subject to a maximum federal allocation. Program costs for fiscal year 1975-76 were \$93.3 million, which is in excess of the amount permitting 75 percent federal

participation. Appendix A is a summary of federal-state-county funding for fiscal years 1974-75 and 1975-76 and shows the unmatched funding in each of those years.

In response to an HEW draft audit report, the State acknowledged that excessive program costs exist and are being funded by the state General Fund.

. . . the homemaker and chore service program is heavily supported with State General Fund monies. Federal funds are not being used to pay for excessive costs. . . . although there were excessive costs, federal financial participation was non-existent or minimal at most . . . (Emphasis added)

The June 1975 Auditor General's report, "A Management Review of the Homemaker-Chore Services Program," contains 13 recommendations for program improvement. We sent this list of recommendations to the State Department of Health on October 18, 1976, reiterating our earlier report. We requested a response addressing the progress of the Department, and the response was received on October 29, 1976. Both letters are presented in Appendixes B and C of this report.

On October 29, the State Department of Health provided us with an extensive work plan entitled "Homemaker/Chore Management Improvement Project." That work plan acknowledges many of the deficiencies highlighted in this audit. It also provides a timetable for the correction of some of those deficiencies. This report addresses, among other issues, the State Department of Health's questionable abilities to meet its own timetable.

FINDINGS

CONTINUED FAILURE TO PROPERLY MONITOR
THE ADMINISTRATION OF THE HOMEMAKER-
CHORE SERVICES PROGRAM.

Inadequate Information System

Federal laws require the State Department of Health to establish standards, formulate regulations, and monitor county operation of the Homemaker-Chore Services Program. A management information system is required to effectively assess program regulations and to detect potential program problems. The Department does not have such a system. Further, such a system is mandated by federal regulations; for example, federal regulations provide:*

Each State which participates in the program shall maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records regarding applications, determination of eligibility, the provision of services, and administrative costs; and statistical, fiscal and other records necessary for reporting and accountability required by the Secretary . . . and shall retain such records for such periods as are prescribed by the Secretary.
(Emphasis added)

The only information that the Department currently receives is a tabulation of the number of clients receiving services and the cost of providing these services. This information comes from the quarterly claims submitted by the counties.

*45 CFR 228.17(a).

One of the "Homemaker-Chore Management Improvement Project" objectives is to complete a social services information system by March 1977. The object of this plan is to provide information, such as reports on methods of service and related costs, and cost by category of eligibility. An interim management reporting system will be developed for use until the social services information system is implemented.

Inadequate County Plans

The counties are required to indicate in their county plan if they are going to provide homemaker or chore services. The county plan also identifies the number of social workers assigned to the program. There is no current state requirement that county plans include such essential information as the projected population to be served or the method by which services are to be delivered. There is a federal requirement for such a planning process; however, the State's implementation of this requirement regarding homemaker-chore services has not produced data which, in our opinion, meet the criteria of an adequate planning process.

In-Home Supportive Services Section Staffing

Of 179 positions in the Social Services Division, eight are assigned to the In-Home Supportive Services Section. Staff from this section are responsible for establishing program standards, formulating regulations, and providing consultation to the counties. Other units

within the Social Services Division are responsible for program evaluation, planning, and approval processes for contract provider agencies.

Shortly after the program was instituted in 1973, one social service consultant was assigned to the program. In 1975, the staff was increased to two, and in July 1976 staff was increased to eight. The current organization for the Social Services Division of the State Department of Health is presented in Appendix D. (A request for five additional staff has been approved effective November 1, and recruitment is underway.) Additionally, seven staff from the Director's Office of Planning and Program Analysis have been temporarily redirected to projects in the homemaker-chore management improvement project workplan.

The Department has proposed 32 additional staff positions for the In-Home Supportive Services Section for fiscal year 1977-78, bringing the total to 40 positions for the In-Home Supportive Services Section. While the Department claims that they cannot properly monitor the Homemaker-Chore Services Program because it does not have sufficient staff, we believe that capabilities exist within the Department to accomplish this function. We believe that the Department should take advantage of its existing manpower resources before hiring additional staff.

Inadequate Use of State
Department of Health Survey Data

During the period December 1975 through March 1976, the State Department of Health Social Services Division conducted a statewide homemaker-chore survey. A major objective of this survey was to obtain

specific data which would enable the Department to determine the total amount paid by the Homemaker-Chore Services Program for providing certain services to eligible Medi-Cal recipients during fiscal year 1975-76. The survey was also designed to identify the amount and cost of a wide range of domestic and personal services. To date, we have not seen any indication that the survey data have been used in any decision-making process.

We have made repeated attempts to determine what the State Department of Health learned from this survey. We asked for copies of tables generated from the survey and were informed that the tables were not available due to computer programming errors. Because the survey results were not available on September 28, 1976, we requested a copy of the computer tape which contained most of the raw data from the survey. The tape was finally given to us on October 19, 1976.

CONCLUSION

The State Department of Health has spent funds for the development of a data base which they have not used. A management information system is not only required by federal regulations, it is the keystone for the development of state regulations that would provide fiscal accountability and aid in assuring program quality. Such a system does not exist. The Department of Health has not directed its existing staff to monitor the Homemaker-Chore Services Program.

CONTINUED FAILURE TO ADOPT
APPROPRIATE REGULATIONS.

Continued failure to adopt appropriate regulations has resulted in ineffective and inefficient program administration. Federal laws require the State Department of Health to supervise the counties' administration of the Homemaker-Chore Services Program. The Department is responsible for developing regulations which provide for the effective administration of the Homemaker-Chore Services Program by counties. New homemaker-chore services regulations, which may more clearly define county responsibilities, are being prepared. We have examined the Department's draft regulations as they have evolved, and we comment on portions of them in other sections of this report.

While the State Department of Health is currently developing such regulations, the Department's poor record in this area, in terms of both promise and performance, raises serious questions regarding its ability and willingness to deliver a comprehensive set of rules to supervise the counties' administration of the program.

Implementation Schedule for
Homemaker-Chore Services Regulations

The lack of a firm schedule to provide necessary regulations for county operations is indicated by the following.

- In a declaration taken on February 13, 1976, before the Sacramento Superior Court in lieu of a court appearance, the Deputy Director of the Social Services Division testified:

The Department of Health is presently drafting state regulations containing provisions requiring written verification of services prior to payment. This state requirement will be contained in regulations which we anticipate will become effective on July 1, 1976.

- The State Department of Health's "Report to the State Legislature--Identification and Status of Proposed Reform Measures in the Homemaker/Chore Services Program," dated April 1, 1976, states:

Currently under development are new regulations which will more clearly define program eligibles, specific program benefits, limitations on benefits, provider standards, and homemaker as differentiated from chore services, the "severely impaired," the application of cost of living increases, and other items.

Planned Implementation Date: July 1976.

- A letter from the State Department of Health to the U. S. Department of Health, Education, and Welfare (HEW) Audit Agency, on June 1, 1976, in reply to the HEW audit of San Francisco County states:

. . . Department of Health is presently in the process of revising the regulations . . . [The] [e]ffective date of the revised and expanded regulations will be no later than October 1, 1976.

- On October 29, 1976, the Chief of the In-Home Supportive Services Section of the Social Services Division of the State Department of Health said that the new target date for the implementation of homemaker-chore services regulations would be April 1, 1977.

If the homemaker-chore services regulations are implemented by April 1977, it will have taken the State Department of Health nearly two years to implement regulations that were recommended in the Auditor General's report of June 1975, and that were acknowledged by the Department to be necessary.

Consequences of Not Developing Effective
Homemaker-Chore Services Regulations

The absence of effective homemaker-chore services regulations has resulted in the following:

- Wide variances among the operations in 58 counties
- Unnecessary homemaker-chore payments
- Variances among county contracting procedures.

Wide Variances Among the
Operations in 58 Counties

In 1975, we reported that existing regulations did not clearly define the difference between homemaker and chore services, nor did they specify which services are to be made available to recipients. This situation remains unchanged. The variances in county operations that existed in June 1975 exist today because homemaker-chore services regulations have not been issued to the counties. As a consequence, there are essentially 58 separate and distinct homemaker-chore services delivery systems in California today.

The absence of adequate state regulations has resulted in variations among the counties in the following:

- Evaluation of client needs
- Amount of service a client will receive, if eligible
- Quality of service
- Policies for relative providers
- Methods of treating social security contributions for individual providers
- Use of existing community resources.

The following declaration of the Deputy Director of the Social Services Division filed before the Sacramento Superior Court, further demonstrates the urgent need for state regulations.

The state has not yet promulgated regulations interpreting Federal Title XX regulation 45 CFR 228.47. In the absence of such an interpretation, it is necessary for the counties to operate their programs based on already existing state law and regulations.

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If a county (such as Sacramento County) has not implemented such a receipt system, they will be held harmless from federal audit exceptions on this count, until such time as the requirement is mandated through state regulations. If in fact, a county is conforming to all applicable state laws and regulations it will be held responsible for implementing only such laws and regulations, and will not be held responsible for failing to conform to federal requirements which the state has not yet implemented.

Unnecessary Homemaker-Chore Payments

A recent HEW draft audit report of the homemaker-chore program of the Los Angeles County Department of Public Social Services (DPSS), repeatedly calls attention to the need for the State to adopt regulations. The following excerpts summarize some of the federal concerns:

DPSS homemaker/chore services are being provided to recipients by close relatives including the spouse, parents and adult children in increasing numbers since December 1, 1973. As a result homechore tasks historically provided by family members at no cost to the government are now being provided with substantial cost to the government. This has occurred because of the absence of Federal, State and County regulations which would preclude, or at least limit to special circumstances, homemaker/chore services being provided by a parent, spouse, or adult child. The State should implement regulations that permit relatives to be reimbursed as providers only under special circumstances.

. . .

. . . any unnecessary or unreasonable homemaker/chore payments could result in funds not being available to assist other eligible individuals needing services under the homemaker/chore program or any of the other available service programs. As a case in point, as of March 31, 1976, DPSS had used all the available homemaker/chore program funds for the fiscal year ended June 30, 1976, and therefore was unable to make further homemaker/chore payments for the last 3 months of the fiscal year without obtaining additional State funding. The amount of additional funding could have been (greatly) reduced or eliminated had the State and DPSS placed restrictions on the circumstances under which relatives could be paid as providers.

In an August 4, 1976, letter, Los Angeles County replied to the federal audit, in part, by saying that the county has:

Acted responsibly and in good faith by repeatedly requesting overpayment treatment guidelines from the State, and pending receipt of such guidelines, applied the only regulations in existence to support overpayment actions taken; . . .

HEW recommended that the State establish regulations that would permit relatives to act as providers only under special circumstances.

The Department replied:

We agree that, in general, there has been an increase in close relative providers, . . . DOH [Department of Health] has been studying this issue and has considered implementing regulations in regard to relative providers, but has not reached a decision. This issue needs careful study; at this point the Department of Health can neither agree nor disagree with DHEW's recommendation.

Variances Among County
Contracting Procedures

The statutory authority for contracts with proprietary and nonprofit providers of homemaker and chore services is set forth in Welfare and Institutions Code Sections 12302 et seq. Contracts are awarded by County Boards of Supervisors, and are based upon the following considerations:

- The fiscal responsibility of the service provider
- Experience of the service provider
- Any other consideration in the public interest.

Pending the issuance of updated regulations, the Department has drawn up guidelines in the form of letters to county welfare directors. The guidelines suggest that counties contract for the homemaker and chore services provided by proprietary and nonprofit corporations. The counties are required to submit proposed contracts for competitive bid to the State Department of Health for prior approval.

Regulations have never been issued, nor have public hearings been held to discuss the feasibility of such rules for contracting with providers of homemaker and chore services. The State Department of Health now uses guidelines which only suggest methods to be used in contracting; they do not mandate a specific course of action.

The Department's guidelines have not been fully incorporated in the proposed regulations. Proposed regulation Section 10-203.4 states only that a contract should be prepared in accordance with the guidelines issued by the Social Services Division.

While enabling legislation appears to give the county certain latitude in awarding a bid, the Department's interpretation is that the law requires the county to award the contract to the lowest bidder. In one of the contracts reviewed, the county simply stated that they had awarded the contract "in accordance with W&I Code Section 12302.1 (e)." The county did not explain which of the statutory criteria were used for the basis of this award, and the State Department of Health interpreted the statement to mean that the contract was awarded to the lowest bidder. In fact, the contract was awarded to the highest bidder. If the county had used the same criteria to review all bids, this would have been evident.

We spoke with representatives from several states about the bidding processes they use. Several of these representatives said that they award contracts to the lowest bidder with specifications regarding mode of service delivery.

The Welfare and Institutions Code requires that the State Department of Health establish allowable costs for contract services. The Department has not developed these criteria, however, and the counties currently use the standard that costs be "necessary and reasonable." As a consequence, wide variations exist in the costs and services among counties; for example, the HEW draft audit report for San Francisco County reported that the State Department of Health had not provided the county agency with standards for determining the reasonableness of costs and profits for the purchase of service from proprietary contractors.

The Department is now developing criteria for determining allowable costs for contracts, and it is also attempting to standardize contracts for county use. Because of the lack of adequate definitions and uniform requirements for contracting, counties use different criteria in the bidding process; for example, one county approved a bid on 2,000 hours of homemaker and chore services per month. The following year, the same county did not specify the number of hours to be used in the bidding process, and three bids were received as follows:

- Contractor X based its bid on 33,600 hours annually
- Contractor Y based its bid on 37,092 hours annually
- Contractor Z based its bid on 37,200 hours annually.

These three contractors had submitted bids for different numbers of hours. After the county had awarded the contract on the lowest total cost basis, the Department applied a uniform unit of service (hours) to the

contractors' hourly rates, and thereby determined that the county actually awarded the contract to the highest bidder.

To avoid wide variances among county contracting procedures, regional representatives from HEW in San Francisco and Seattle and the National Council for Homemaker-Home Health Aide Services, Inc., have referred us to the contracting procedures used by the State of Oregon as a model worthy of consideration. We have provided Oregon's procedures for consideration (See Appendix E). For other variances in contracting procedures, refer to Other Information Requested by the Legislature, on page 27.

CONCLUSION

The "guidelines" established by the State Department of Health for the Homemaker-Chore-Services Program do not mandate a specific course of action, nor do they require a public hearing. Since the Department does not have an adequate data base, we feel public hearings are essential to provide the input needed to adopt comprehensive regulations.

The Department should adopt updated regulations as soon as possible to effectively and efficiently administer the Homemaker-Chore Services Program.

CONTINUED FAILURE TO USE
AVAILABLE FEDERAL FUNDING.

Potential supplemental federal funding sources available to the Homemaker-Chore Services Program include Title XIX (Medi-Cal) and Titles III and VII of the Older Americans Act. The Department has not taken appropriate actions to use these funding sources.

Failure to Use Federal Funding
Available Under Title XIX

In our June 1975 report, "A Management Review of the Homemaker-Chore Services Program," we stated that approximately \$11.3 million Federal matching Title XIX (Medi-Cal) funds could be used to provide medically related services to recipients of the Homemaker-Chore Services Program. We recommended that the Department amend its regulations to permit the use of Medi-Cal funds in this manner; however, after nearly a year and one-half, the Department still has not acted in a substantive manner on our recommendation.

The Welfare and Institutions Code authorizes the Department to fund in-home supportive services, where appropriate, under the Medi-Cal Act. In addition, federal regulations permit personal care services, as services eligible for Medi-Cal funding.

Providing medically related care to homemaker-chore recipients requires the services of either a personal care aide or a home health aide. A personal care aide is an individual who can work by contract either directly with a recipient or through the county under the supervision of a registered nurse. Fifty percent federal funding without limitation is available under provisions of Title XIX (Medi-Cal) to finance the use of personal care aides; however, there is no provision in state law for such a program. Therefore, homemaker-chore services are being funded exclusively with Federal Title XX (Social Services) funds and state General Fund matching monies. An analysis of the economic impact on the state General Fund and the counties' expenditures not earning federal matching money appears in Appendix A. In a single year, state and county unmatched monies increased by 200 percent.

Use of Title XIX (Medi-Cal) monies for the medical component of the Homemaker-Chore Services Program has been recommended in the following reports:

<u>Report Title</u>	<u>Prepared By</u>
A Management Review of the Homemaker-Chore Services Program	Auditor General's Office
California's Homemaker/Chore Program	Department of Finance
Cost Reducing Reforms--Analyses of Item 291 of the Budget Act for FY 1976-77	Legislative Analyst
Report to the State Legislature: The Identification and Status of Proposed Reform Measures in the Homemaker/Chore Services Program, April 1, 1976	State Department of Health

The Legislature also recognizes that Medi-Cal money should be used for the medical component of the Homemaker-Chore Services Program. Item 279 of the Budget Act for fiscal year 1975-76 requires the State Department of Health to use funds available through the Medi-Cal program to the extent that such use will result in a net reduction of General Fund expenditures for homemaker and chore services. Further, Item 291 of the Budget Act for fiscal year 1976-77 requires that the State Department of Health report its progress in obtaining Title XIX monies to the Joint Legislative Budget Committee on a quarterly basis.

On August 20, 1976, the State Department of Health, in a letter to the Chairman of the Budget Committee, addressed the issue raised in Item 291. The letter set forth two options: (1) using survey information to estimate the total amount of the Medi-Cal component of the program, and (2) requiring the counties to accumulate hours and costs and to recover these costs through the Medi-Cal fiscal intermediary. The Legislative Counsel Opinion on the use of fiscal intermediaries is Appendix F.

The use of the first method during 1975-76 identified \$2.6 million of Medi-Cal reimbursable costs; however, in October 1976, the Medi-Cal claim of \$1.3 million in federal matching funds was rejected because (1) the use of Medi-Cal monies for the Medi-Cal component of the Homemaker-Chore Services Program was not delineated in the state plan, and (2) the program was not medically supervised.

Representatives from the State Department of Health and the U. S. Department of Health, Education, and Welfare are developing a plan to use Title XIX funds for the medical component of the homemaker-chore services caseload. Meanwhile, time continues to elapse without the State earning federal matching monies.

The methodology for implementing procedures to claim Title XIX funds for homemaker and chore services has existed since August 1975. A letter from Social and Rehabilitation Services of the U. S. Department of Health, Education, and Welfare dated March 5, 1976, specifically states:

Current Title XX regulations would not preclude a homemaker provider agency, that is furnishing homemaker services to an eligible Title XX recipient, from providing on the same visit non-Title XX services, such as home health aide services funded by another source, such as Title XIX, thus making two separate and distinct visits unnecessary. If such a situation occurs, the homemaker agency would be required to be assured that the Title XX agency is billed only for those services which are covered under its program. The Title XX provider agency would need to establish a system for identifying and segregating out the costs applicable to Title XX funded services.

This letter was transmitted to the State Department of Health by the Auditor General in his letter dated April 28, 1976; however, the present draft regulations of the Department do not specify how Medi-Cal will be billed for this health-related component of the Homemaker-Chore Services Program.

Conversely, other states, such as Nevada, New York and Oklahoma, are providing medically related services to persons living in their own homes. Oklahoma employs one registered nurse to supervise 80 to 100

personal care aides. New York and Nevada provide a comprehensive in-home service program which includes both personal care and home health aides as providers. California law only provides for the use of home health aides.

Older Americans Act Funds

Federal Title III (Area Planning and Social Services) and Title VII (Nutrition) money that has not been allocated for the current fiscal year is available to relieve the burden imposed by the increasing cost of the Homemaker-Chore Services Program. Also, some in-home health services can be financed from Title III funds. Some chore services relating to meal preparation can be replaced by Title VII nutrition funds. The Directors from the State Department of Health and the Department of Aging are taking one step in this direction; they are developing a pilot project in one county to coordinate meal preparation services by meeting meal preparation needs of homemaker-chore services' recipients through the Department of Aging Nutrition Project.

In our opinion, coordinating the care programs in the State Department of Health is essential to (1) meet the individual needs of the aged, (2) develop overall long-term care policies, (3) preserve existing resources, and (4) obtain all additional available resources from the Federal Government.

Use of Federally Sponsored WIN
and CETA Programs to Train Providers
of Homemaker-Chore Services

Because the Federal Title XX appropriation for homemaker-chore services is limited, the expansion of the program over the last year and one-half has required 100 percent state and local funds. On the other hand, if the providers of this service received the appropriate training, they could provide in-home health services, and each state and local dollar would be matched by a federal dollar.

In-home health providers receive a higher rate of compensation than homemaker-chore providers. A substantial number of homemaker-chore providers are recipients of Aid to Families with Dependent Children (AFDC). These AFDC recipients could be trained to become health providers through the Work Incentive (WIN) or Comprehensive Employment Training Act (CETA) programs. The higher rate of compensation would, at a minimum, reduce the amounts they receive in AFDC payments and, in some cases, eliminate them from welfare rolls.

According to the Social Security Administration, a person working for the minimum wage during his working life receives the minimum Social Security benefits. Paying AFDC recipients no more than the minimum wage virtually ensures that they will receive minimal Social Security benefits and therefore will require higher supplemental state payments when they reach age 65. If AFDC recipients were given the training to provide in-home health care, as well as the housekeeping functions that homemaker-chore people provide, three immediate benefits result:

- They would be able to provide better care to the aged or disabled recipients
- They would receive a higher rate of pay eliminating some from the AFDC rolls
- The program would be financed under Title XIX where state and local money would earn federal matching money to pay the higher salaries.

The required training would result in no cost to the State since the federally funded WIN and CETA programs already exist. The additional pay to the AFDC recipients would come from the federal matching of currently unmatched state and local dollars, and people in need of medically related care would receive that care. The CETA program is also available to train homemaker-chore providers who do not currently qualify as in-home health providers.

Presently, the homemaker-chore draft regulations do not contain formal training requirements for providers of homemaker and chore services. Other states require that they be trained prior to providing services to homemaker-chore recipients.

An excerpt from the Hennepin County, Minnesota regulations
states:

All new employees of Vendor hired as homemakers, chore persons, or supervisors, who will be providing service for the Hennepin County Welfare Department, shall complete training as outlined below prior to providing any service for the Hennepin County Welfare Department; however, completion of homemaker or chore training with any contract Vendor shall be recognized as fulfilling contract requirements for initial training. Vendors employing homemakers previously trained by another contract Vendor retain the right to require such homemakers to complete any or all portions of their training program.

Important - Any homemaker not fulfilling the ongoing training requirement must repeat the pre-service training program prior to providing any further service to Hennepin County Welfare Department Eligible Recipients.

Chore persons providing specific household tasks are required to attend:

Eight (8-) hours pre-service training consisting of Sections 1 through 5 in the Homemaker/Chore Person Training Outline.

Homemaker persons are required to attend:

1. Sixteen- (16-)hours pre-service training.
2. Twelve- (12-)hours ongoing training per year.

The State of Oregon has established training and experience standards for provider agencies with whom they contract for homemaker and chore services. These standards are set forth on page 6 of Appendix E.

CONCLUSION

Although Title XIX monies are available, and are being received by some states for funding the medical component of the homemaker-chore services program, the State Department of Health has not implemented regulations to obtain these federal matching monies.

Older Americans Act monies are available to provide meals for homemaker-chore services recipients, but the State Department of Health is only attempting to coordinate these services in one county.

The opportunity to use federally sponsored WIN and CETA programs to train providers of homemaker-chore services has not been evaluated by the State Department of Health.

The State Department of Health should use these potential funding sources to supplement the Homemaker-Chore Services Program.

OTHER INFORMATION
REQUESTED BY THE LEGISLATURE

Inadequate Bid Evaluation

In one central valley county, a contract for homemaker and chore services was awarded to a proprietary company which placed a bid for services one cent lower per hour than a nonprofit company that had been providing the services. The two bids placed were as follows:

Contractor A, the proprietary bidder, bid:

Homemaker	\$3.60 per hour
Chore	\$3.50 per hour
Combined rate	\$3.55 per hour
Employee wages	\$2.20 per hour with no merit increases

Contractor B, the nonprofit bidder, bid:

Homemaker	\$3.74 per hour
Chore	\$3.38 per hour
Combined rate	\$3.56 per hour
Employee wages	from \$2.10 to \$2.55 per hour, plus merit increases

After being awarded the contract, the new contractor employed essentially the same providers as the previous contractor. Although the same providers delivered the same services under both contractors, they received lower wages and fewer employee benefits under the new contractor. The new contractor then began diverting assets from his parent company; he later filed bankruptcy. As a result, services to recipients were disrupted, the providers were not paid, and the county was forced to reprocure contracts to resume services.

The State does not have regulations, such as requiring contractors to obtain performance bonds, which will safeguard the counties from this type of situation.

The State Department of Health requested the Health Audits Bureau of the Department of Benefit Payments to audit the contractor who filed bankruptcy. As of October 29, the Health Audits Bureau had not released the results of that audit. A representative of the bureau indicated that they had found the contractor was diverting assets from the parent company that was doing business in nine California counties.

An opinion by the Legislative Counsel regarding this situation states:

While the provider's diversion of county funds paid under a contract pursuant to Section 12302 for home-maker and chore services is not specifically made a crime, such action may, depending upon all of the facts and circumstances, be punishable as fraud (Sec. 72, Pen. C.), theft (Sec. 484, Pen. C.) or embezzlement (Sec. 503, Pen. C.).

Auditing Requirements for Contract Providers

Federal regulations require that information to support the reasonableness of the rates of proprietary and nonprofit providers of homemaker-chore services be made available and that federal financial participation be available for social services purchased, only when records are available to support rates of payment.

The State Department of Health, however, does not now require the counties to develop and maintain county rates. As a result, HEW has asked San Francisco County to refund Title XX funds.

The information maintained by San Francisco County included incomplete and unaudited financial information on three service contractors. HEW auditors found that the only financial data available were unaudited financial statements, and these statements understated actual profits made by the contractors. Since records were not available to support the rates of payment to the contractors, the claim for federal Title XX funds was not eligible for federal financial participation.

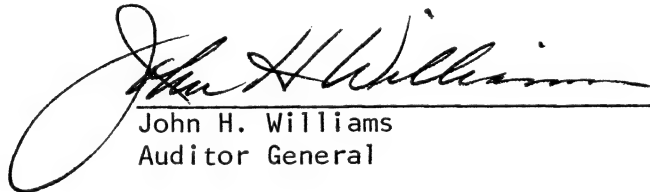
Existing Department of Health guidelines state that audits performed by an independent CPA must comply with "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," issued by the Comptroller General of the United States, and that these standards are to be used by county auditing staff. Since the State's guidelines are permissive, the counties are not required to adhere to these standards.

The HEW draft audit report of San Francisco County showed that contractors had submitted unaudited statements and that the county had not performed an independent review of the contractors' records pertaining to the statements.

In our review of other county contracts with provider agencies, we also found that some counties did not require contractors' statements to be audited. There was no indication that the county investigated the contractor's ability to perform.

In another county, the audit of financial statements of the contractor was performed by a local CPA firm. A member of that firm was on the board of directors of the contractor.

Respectfully submitted,



John H. Williams
Auditor General

November 5, 1976

Staff: Gerald Hawes
Robert Christophel
Lilia Molina

SUMMARY OF FUNDS MATCHING
HOMEMAKER-CHORE FISCAL YEARS
1974-75 AND 1975-76

<u>Source of Funds</u>	<u>Fiscal Year Cost</u>	
	<u>1974-75</u>	<u>1975-76</u>
Total Cost	<u>\$80,984,934.31</u>	<u>\$93,291,618.83</u>
Less Shared Costs		
75% Federal	\$53,603,977.00	\$48,634,673.00
25% State	<u>17,867,992.00</u>	<u>16,211,556.67</u>
Subtotal	<u>\$71,471,969.00</u>	<u>\$64,846,229.67</u>
Unmatched State Costs	\$9,512,965.31	\$21,205,347.50
Unmatched County Costs*	<u> -- </u>	<u>7,240,041.66</u>
Total Unmatched Costs	<u>\$9,512,965.31</u>	<u>\$28,445,389.16</u>

*Represents state disallowance of county claims which exceeded the state allocation of homemaker-chore funds in 47 counties.



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California Legislature



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October 18, 1976

Dr. Jerome Lackner, Director
State Department of Health
714 P Street
Sacramento, California 95814

Dear Dr. Lackner:

In June of last year, we issued our report "Management Review of the Homemaker-Chore Services Program". In September of this year, we were again requested to review the Homemaker-Chore Services Program. A copy of that report is enclosed for your convenience.

We make the following recommendations:

1. The Department of Health establish a listing of those services which would be available to clients eligible to receive "homemaker services" and those clients eligible to receive "chore services".
2. The Department of Health establish a range of provider payment rates, to be paid by counties to client-employed providers and to provider agencies under contract with the counties.
3. The Department of Health establish regulations requiring the periodic monitoring of contracts between counties and provider agencies.
4. The Department of Health implement a management information system that would enable it to meet its obligations to effectively supervise the county administration of the homemaker-chore services program.

5. The Department of Health require counties to submit comprehensive social service delivery plans which would include the following:
 - a. Projected population served,
 - b. Methods of service delivery and number and description of recipients of each service,
 - c. Costs of providing service and method used to establish rates of payment,
 - d. Method of supervising the program (numbers and qualifications of supervising staff),
 - e. Training program used,
 - f. Availability of and use of community resources.
6. The Department of Health transfer sufficient Department staff to the Services Operation Section to permit the development of adequate regulations, county consultation and compliance monitoring.
7. The Department of Health establish regulations to require improved channels of communication between the clients and county welfare workers so that changes in a client's condition will be met with appropriate changes in the level of service.
8. The Department of Health establish regulations allowing payments to relative-providers only when they are from low income households or when they are providing extraordinary services which are in addition to normal household routine.
9. The Department of Health establish regulations requiring the counties to perform the bookkeeping functions now imposed on the client. To do this the counties would report both the employee's and the employer's share of the social security contributions to the proper authorities.
10. The Department of Health enforce regulations to use existing community service organizations.
11. The Department of Health adopt regulations which would permit the use of the full range of in-home medical-social services so that homemaker and chore clients will not have to depend on unqualified providers for medically-related services.

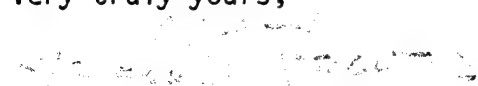
Dr. Jermome Lackner
October 18, 1976
Page 3

12. The Department of Health require the use of medical-social review teams or their equivalent, where indicated, to assure provision of appropriate levels of services to clients.
13. The Department of Health exercise its existing authority to change the regulations which would permit the use of Medi-Cal funds for the purchase of personal care aide services.

We would like to know whether or not your Department has adopted any of the above recommendations, and whether or not the Department is now taking steps to either implement specifically some of the above recommendations or to otherwise alter the nature of the program.

We would appreciate receiving your response before October 29. We do not need a lengthy analysis of your Department, but rather a letter which outlines those steps to be taken in order to implement some of these recommendations.

Very truly yours,


Gerald A. Hawes
Audit Manager

GAH:RLM:lc

cc: Mr. Gary Macomber
Assistant Deputy Director
Social Services Division
Department of Health

Mr. John Wilson, Chief
In-Home Support Services Section
Department of Health

DEPARTMENT OF HEALTH

714-744 P STREET

SACRAMENTO, CALIFORNIA 95814



October 29, 1976

Mr. Gerald A. Hawes, Audit Manager
Joint Legislative Audit Committee
Office of the Auditor General
925 L Steet, Suite 750
Sacramento, California

Dear Mr. Hawes:

Dr. Lackner has asked me to respond to your request for an update on the Department's action with respect to recommendations contained in the Auditor General's report on the Homemaker/Chore Program issued June 1975.

As you are aware from discussion with members of my staff, most of those recommended changes are being addressed by incorporation into new regulations, policy, or procedures. The attached project workplan identifies the problem-solving activities we are currently engaged in and outlines the steps we are taking to improve administration and operation of the Homemaker/Chore Program. Many recommendations in your report are being adopted either on the draft regulations already provided to you* or as workplan projects currently underway.

I refer you to sections in draft regulations or the project workplan for detailed information on the Department's activity on the following report recommendations:

1. Draft regulations Section 30-455 Program Scope lists all services available under the In-Home Supportive Services Program (IHSS). The distinction between Homemaker and Chore Services has been eliminated.
2. The attached Services Memorandum 39-76 informs the counties that they are expected to comply with Wage Order 15-76 which sets \$2.50 per hour as the minimum wage effective October 18, 1976. Refer to the memorandum for further explanation of the Department's policy.

Contract agency rates are controlled through the competitive bidding process by which counties are required to award the Homemaker/Chore contract, with very few exceptions, to the lowest bidder. Also, refer to Task 3 of the project workplan (explained in 3, below).

3. Draft regulations Section 30-460.2 Purchase of Service from an Agency requires, in part, county monitoring and supervision of contract agencies.

Task 3 of the project workplan is to construct standards for contract agencies including contractor selection standards, fiscal and program reporting requirements, a standard contract and invitation for bid. Task 7 involves the Department of Benefit Payments audit of six contract agencies to determine financial conditions as well as the reasonableness of their fiscal operations and accounting methods.

4. Task 10 of the project workplan is to complete the Social Services Reporting Systems (SSRS) requirements which is federally mandated and will provide information on the IHSS Program.

Task 12 is to implement an interim simplified reporting system until SSRS is finalized. It is designed to provide timely information from the counties which can be computer updated.

5. Draft regulations Section 30-462 General Administrative Requirements, directs each county to develop an annual plan for in-home supportive services and specifies required elements.
6. The Department has requested an additional 32 positions in the Budget Change Proposal for Fiscal Year 1977-78 to augment the current staff of 8. (A request for 5 additional staff has been approved effective November 1 and recruitment is currently underway.) Additionally, 7 staff from the Director's Office of Planning and Program Analysis have been redirected to a number of projects in the workplan. Their assistance will continue until their assigned projects have been completed.
7. Draft regulations Section 30-459 Service Delivery Standards describes in detail the responsibilities the county social worker has in assuring client needs are correctly assessed, met, and authorized services adjusted to meet changes in need. 30-459.3 specifies that a telephone number for complaints or problems will be given to each recipient and service provider.

8. Draft regulations Section 30-456 Shared Households prohibits payment for household maintenance services and for preparation of more than one meal a day when one or more able-bodied adults share the household.
9. This recommendation is under consideration, but has not been acted upon at this time.
10. Draft regulations Section 30-456 requires the county to fully explore alternate methods of providing in-home services, which may be available through other community agencies or programs. Enforcement of this provision dependence on the augmentation of additional staff referred to in 6 above.
11. Attached is a copy of Services Memorandum 40-76 which sets forth the Department's policy on the provision of personal and health-related services and the persons who may provide them. There is also a stipulation that counties and the clients must be satisfied that the provider can competently perform the required tasks, using a public health nurse to instruct unlicensed providers if deemed appropriate.
12. Draft regulations Section 30-459 mandates each county to establish a medical/social review team to verify physician's report and social worker's initial recommendation and to make the final authorization for services.
13. Task 14 of the project workplan is to evaluate, and if indicated, implement the shift to Title XIX funding for personal and health related services. Also, refer to the August 20, 1976 letter to Senator Grunsky which further details the steps we have taken on this.

I hope this sufficiently responds to your questions. Please contact John Wilson, Chief of In-Home Supportive Services Section if you require further information or clarification concerning the recommendations in the June report.

Sincerely,



GARY D. MACOMBER
Deputy Director for
Social Services

*A copy of the most recent draft is attached.

SOCIAL SERVICES DIVISION

OFFICIAL

APPENDIX D

4
Total = 179

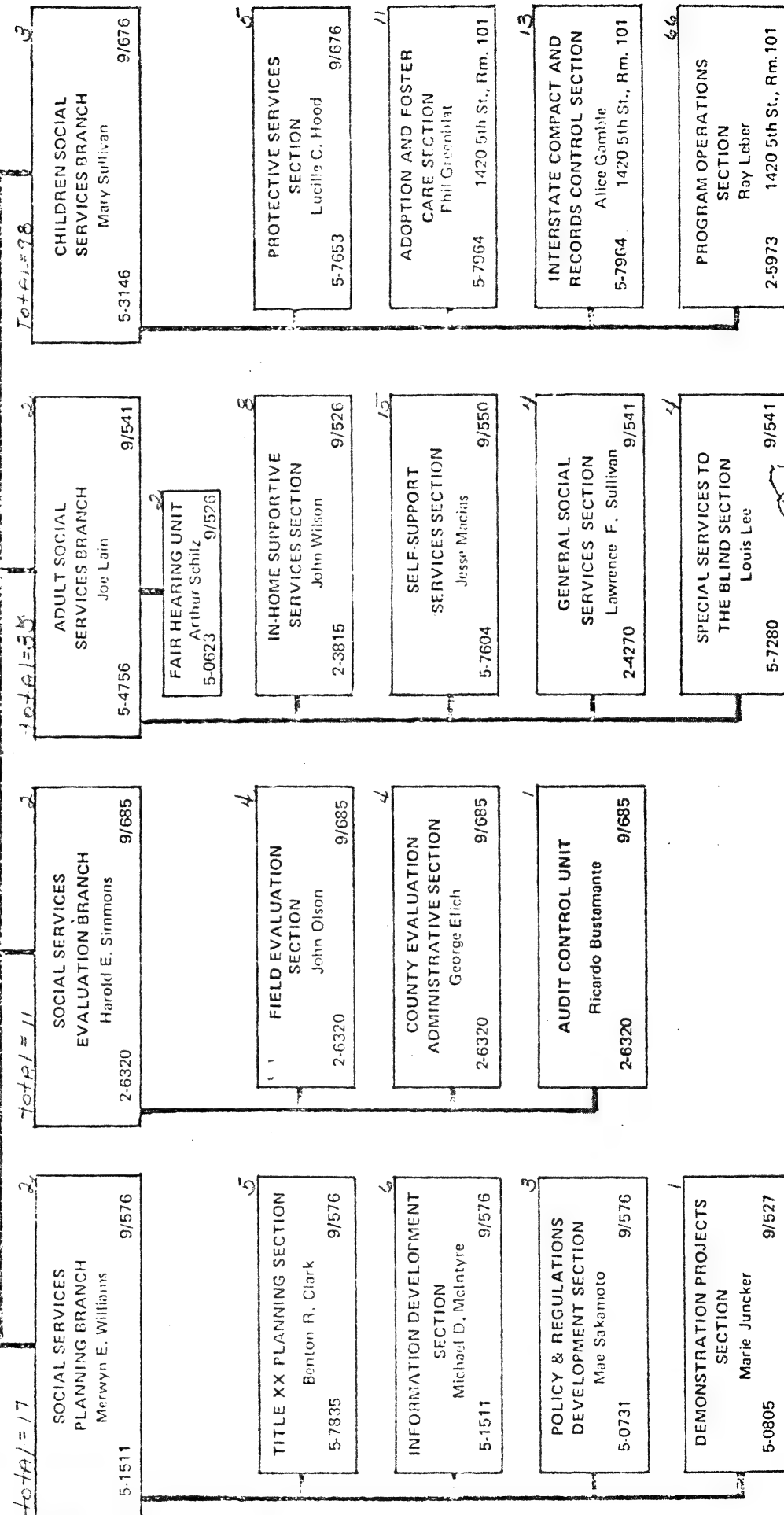
DEPUTY DIRECTOR Gary D. Macomber	9/527
ASSISTANT DEPUTY DIRECTOR Alfred E. Smith	9/527

12

SERVICES RESOURCES CONTROL SECTION Martin Warren	9/597
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PROGRAM LIAISON SECTION Charles Devereaux	9/527
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Approved by: *[Signature]* Date: 7-26-76

Section 1. General Information and Proposal Instructions

1.1 Purposes

This Request for Proposal (RFP) is issued by the State of Oregon, Department of Human Resources, Public Welfare (Division) to secure professional homemaker services.

1.2 Scope

This RFP contains administrative and procedural information concerning instructions for preparation and submittal of the Proposal; and terms, and conditions to be included in any contract awarded as a result of this RFP. This RFP includes the following:

- RFP Sections 1 and 2
- Homemaker Service requirements and licensing and program standards (Exhibit 1)
- Budget Forms (To be completed by Offeror)
- General Provisions (To be included in any resulting contract)

1.3 Acknowledgement of RFP

Offerors are requested to promptly acknowledge receipt of this RFP and to advise the person named in 1.4 below whether or not they intend to submit a proposal in response thereto.

1.4 Closing Date for Submittal of Proposals

Proposals must be submitted to arrive not later than close of business, 5:00 PM, Oregon local time, September 20, 1976, to: Dexter D. Henderson, Contracts Manager, 401 Public Service Building, Salem, Oregon 97310. Telephone 378-3713.

Proposals received after the time and date specified shall be considered "Late Proposals." The Division is under no obligation to consider late proposals, but may do so if received sufficiently prior to award, and if it is determined to be in the Division's best interest to do so.

1.5 Inquiries Relating to this RFP

Any explanation desired by an offeror regarding the meaning or interpretation of provisions of the RFP should be requested in writing. Allow five work days for a reply to reach all offerors before submission of their proposals. Any interpretation made will be in the form of an amendment to the solicitation and will be furnished to all prospective offerors. Oral explanations or instructions given before the award of the contract will not be binding.

1.6 General Information

- a. These instructions prescribe the format of the requested Proposal and describe the approach for the development and presentation of Proposal data. They are designed to ensure complete submission of information necessary to an equitable analysis and evaluation of submitted proposals. There is no intent to limit the content of Proposals.
- b. Proposals which merely offer to conduct a program in accordance with the requirements of the scope of work to be performed will be considered non-responsive to this request and will not be considered further. The offeror must submit a definitive proposal, for the end results that are set forth in the RFP, which explains how the service will be provided.
- c. The Proposal shall be submitted in two parts, technical and Cost and Pricing, and shall be accompanied by a cover letter. The Cost and Pricing Proposal shall be separately sealed in an envelope within the envelope containing the rest of the Proposal. All parts of the Proposal, including the cover letter, shall be sealed in an envelope addressed as shown in 1.4 herein and clearly marked "CONTRACT PROPOSAL TO BE OPENED BY CONTRACTS MANAGER ONLY."

1.7 Cover Letter

Each proposal shall be accompanied by a cover letter stating the following:

- a. The name of the person(s) authorized to represent the offeror in any negotiations and sign any contract which may result.
- b. Legal Authority to operate in the State of Oregon.
- c. Location of business office in area of service.

1.8 Technical Proposal Format

The technical Proposal shall be submitted in three copies for each service area and shall consist of the following as a minimum:

- a. Identification of the service area for which the Proposal is submitted.
- b. A statement that the Proposal includes all terms and conditions of the RFP.
- c. Offeror's Proposal for meeting the scope of work identified in Section 2, herein.
- d. Training program to assure ability to perform service requirements and method of evaluating homemaker's performance.
- e. Organization to provide the following:
 - (1) Organization chart.
 - (2) Job descriptions for each position.
 - (3) Supervisory personnel resumes. Identify professional experience working with families, aged and chronically ill.

- (4) Personnel Policies.
- (5) Advisory Committee, it's composition, purpose, etc.
- f. Method of accounting for direct service time of homemakers (see paragraph 2.6).
- g. System for monitoring and controlling performance of services to ensure compliance with contract requirements.
- h. Membership in or approval by a standard-setting professional homemaker society which evaluates members' performance to the standards as a condition of such approved membership. Identify the society and furnish evidence of membership or approval and copy of the current evaluation report.
- i. Experience in providing similar services. Name and address of public and private agencies and organizations for which similar services have been provided under contract since January 1, 1973. Include name and telephone number of agency/organization representative.
- j. Type and amount of training and experience of homemakers who may be assigned to any contract which may be awarded.

1.9 Technical Proposal Weighting and Criteria

<u>Weighting</u>	<u>Criteria</u>
15%	a. Offeror's Proposal for meeting the scope of work to be performed as identified in Section 2 and Exhibit 1. Evaluation will include methodology, practicality and effectiveness of proposed approaches, clarity and completeness.
15%	b. Training program to assure ability to perform service. Specify method of providing training, frequency, Instructor Qualifications, etc.
15%	c. Organization to provide services; must include organizational chart.
10%	d. Method of accounting for direct service time of homemakers.
15%	e. System for monitoring and controlling performance of services to ensure compliance with contract requirements.
5%	f. Membership in a standard-setting professional homemaker society.
15%	g. Experience in providing similar services.
10%	h. Homemaker training and experience. Must state type of training, when and how acquired.

1.10 Cost and Pricing Proposal

A cost and Pricing Proposal in three copies for each service area shall be

sealed in a separate envelope marked COST AND PRICING PROPOSAL and enclosed in the general proposal envelope. It shall identify the service area and consist of at least the following:

- a. Total contract price during the period Oct. 1, 1976 to June 30, 1977, based on estimated hours of direct services as described herein.
- b. The rate per hour of direct service, upon which payment for services is proposed.
- c. Proposed operating budget using attached forms. Budget must identify anticipated costs and revenue related to the Proposal separate from other anticipated costs and revenue.
- d. Method of constructing rate including pricing of individual tasks described in the scope of work to be performed when appropriate.
- e. Method of constructing full time equivalent homemaker time including elements of direct service and all other time. Constructing of time and reporting of time will be available for review at the request of Federal, State, or Division personnel.
- f. The application and use of funds for Direct and Indirect services will normally be evaluated by the Division at least once during the life of the contract. All financial accounting time reporting systems shall be available for review by Federal, State, and Division personnel.

1.11 Cost and Pricing Proposal Criteria

The Cost and Pricing Proposal will be evaluated on the adequacy of the pricing data submitted, including extent and appropriateness of detail in identifying elements of cost, and in pricing individual tasks where appropriate. It will be reviewed under the direction of the Division Fiscal Manager, and a report will be furnished to the proposal evaluation committee. Total price quoted will be considered, but will not necessarily govern. No weighting is assigned, however, it will be considered as a critical part of the evaluation. Failure to provide sufficient data to support the contract price and rate per hour of direct service may eliminate the offeror from further consideration.

1.12 Cost of Proposal

All costs incurred in the preparation of a Proposal responding to this RFP will be the responsibility of the Offeror and will not be reimbursed by the Division.

1.13 Proposal Description

The Proposal will be judged on the overall quality of content and format as described in Para 1.9 and 1.10. It should be without expensive art work, unusual printing or other materials not essential to the utility and clarity of the Proposal. Only those Offerors who supply complete information as required by these specifications will be considered for evaluation. If the Offeror proposes changes in the scope of work to be performed, such changes will be considered provided the changes are identified and the Division determines the program goals will be achieved and the total program will benefit from the change.

1.14 Right to Award, Reject or Negotiate

The Division reserves the right to award a contract covering either technical or professional social service areas without further discussion of the Proposals submitted; therefore, proposals should be submitted initially on the most favorable terms from both price and technical standpoint which the Offeror can propose. The Offeror shall specifically stipulate that the proposal accepts all the terms and conditions contained in the RFP. It is understood that the Proposal will become a part of the official file on this matter without obligation to the Division. Alternate types of contracts, if proposed, will be considered. However, the Division reserves the right to select the type of contract most advantageous to the Division. Such contract will include at least the following:

- a. All applicable requirements of this RFP.
- b. The contractor's proposal as agreed upon.
- c. General provisions.
- d. Homemaker Services (Exhibit 1).
- e. Required forms.
- f. Training Standards. (See 1.16 for training requirements).
- g. Any other terms, conditions and provisions required by State or Federal laws or regulations, or by Division policy.
- h. The Division contemplates award of a contract to that firm whose Proposal demonstrates that the firm would be most advantageous to the Division, price and other factors considered. The Division reserves the right to award a contract to other than the low Offeror, to award a contract covering either or all service areas, or to not make an award if that is deemed to serve its best interests.

The Division also reserves the right to reject any and all proposals received by reason of this request, or to negotiate separately in any manner necessary to serve the best interests of the Division.

Award of any contracts, if awarded, will be within approximately 15 days after the final date for submission of proposals. A fixed price contract based on unit price per hour of direct services, (not necessarily based solely on hourly rate) as described herein, is anticipated.

1.15 Supervision

The supervision of the overall program, including providing of homemaker consultation, staff training, and interagency coordination, shall be staffed by a person or persons holding a Master's Degree in social work, nursing, home economics, or an acceptable equivalent. There shall be at least one full time homemaker supervisor for each 12 homemakers.

1.16 Training and Experience

Homemakers used on any contract which may be awarded shall have completed the following minimum training and experience:

- a. No less than 15 hours of formalized class training covering subjects described in c. below.
- b. No less than 25 hours on-the-job training under an experienced homemaker,
- c. Ongoing training shall consist of no less than 24 hours of formalized class time per year in no greater intervals than monthly. Such training shall cover the areas listed below:
 - (1) The agency, the community, and the role of the homemaker.
 - (2) The nature of elderly and disabled and the role of the homemaker in the family home.
 - (3) Care and maintenance of the home and personal belongings.
 - (4) Home accident prevention.
 - (5) Family spending and budgeting.
 - (6) Nutrition and food preparation.
 - (7) The child in the family.
 - (8) The ill, disabled and aging.
 - (9) Mental health and mental illness.
 - (10) Personal care and rehabilitative services.

1.17 Evaluation of Proposals:

A committee will be appointed to evaluate all proposals received. Each of the criteria listed in 1.9 will be evaluated for the purpose of ranking the proposals in relative position based on how fully each proposal meets the requirements of this RFP. The percentage of the overall evaluation to be assigned to each criteria is shown under the heading "Technical Proposal Weighting and Criteria."

Section 2

REQUIREMENTSSection 2. Requirements2.1 General

The Division requires the services of a professional agency to provide homemaker services in the homes of clients of the Division, when requested by the Division, during the period starting October 1, 1976 and ending June 30, 1977. The number of direct service homemakers hours which the Division estimates it may require are estimates only, and the Division makes no guarantee as to any number of hours of service which it may require or number of clients which it may refer for such services. Proposal rates will be a determining factor in the amount of hours of service purchased. The contract offeror may furnish a proposal covering all areas listed below, or a proposal limited to one or more areas.

2.2 Work to be Performed

- a. Furnish homemaker services to families in the following service areas when referred by the Division Branch offices shown:

(1) Area A

1. Multnomah County

- a. Albina PWD Branch
- b. SE Portland PWD Branch
- c. West Portland PWD Branch
- d. North Portland PWD Branch
- e. NE Portland PWD Branch
- f. East Portland PWD Branch

2. Washington County Hillsboro PWD Branch

(2) Area B

1. Marion County

- a. North Salem PWD Branch
- b. South Salem PWD Branch
- c. Woodburn PWD Branch

2. Dallas PWD Branch Polk County

3. McMinnville PWD Branch Yamhill County

(3) Area C

1. Linn County

- a. Albany PWD Branch
- b. Lebanon PWD Branch

2. Corvallis PWD Branch Benton County

(4) Area D

1. Jackson County

- a. Central Point PWD Branch
- b. Medford PWD Branch
- c. Ashland PWD Branch

- (5) Area E 1. Grants Pass PWD Branch Josephine County
- (6) Area F 1. Lane County
 - a. West Eugene PWD Branch
 - b. Eugene PWD Branch
 - c. Springfield PWD Branch

- (7) Area G 1. The Dalles PWD Branch Wasco County
- (8) Area H 1. Newport PWD Branch Lincoln County

Estimated number of hours of direct homemaker service during the specified contract period.

Area A, 760 per month, not to exceed 6,840.

Area B, 200 per month, not to exceed 1,800.

Area C, 300 per month, not to exceed 2,700.

Area D, 325 per month, not to exceed 2,925.

Area E, 100 per month, not to exceed 900.

Area F, 540 per month, not to exceed 3,860.

Area G, 30 per month, not to exceed 270.

Area H, 20 per month, not to exceed 180.

- b. Except as otherwise provided herein, the proposal shall include the furnishing of all necessary personnel, facilities, materials, equipment and services to accomplish the work to be performed.
- c. As required, services shall include:
 - (1) Professional services related to the aged and chronically ill:
 - (a) Teaching and demonstrating methods for independent living.
 - (b) Teaching and demonstrating personal hygiene and nutrition.
 - (2) Professional services related to personal social/emotional needs to the aged and chronically ill.
 - (a) Provide appropriate ego support to individuals, isolated, lonely, or those suffering mental illness or extreme emotional distress.
 - (3) Professional services related to evaluation and diagnosis to the aged and chronically ill:
 - (a) Identify changing needs and conditions in the home and report them promptly to the Adult Service Worker.
 - (b) Observe and evaluate individual functioning and progress as related to treatment goals.

(4) Professional services related to home management.

- (a) Teaching and helping put into practice practical home care planning and methods.

(5) Individual care services:

- (a) Caring for adults who are temporarily disabled.
- (b) Providing (non-nursing) support for medical services to an individual.
- (c) Doing light housekeeping functions when an individual is unable to care for himself. This is done only when it is incident to homemaker services, housekeeping will be covered under housekeeping contracts.
- (d) Orient Division supervisors (and caseworkers, if feasible), in the use of such homemakers; confer, cooperate, and maintain liaison with Division staff to assure appropriate utilization and quality of the subject service and training. This will include monthly mutual staffings between the agency caseworker and the provider to assure appropriate service and carrying out of the plan

2.3 Eligibility

The Division, through its local Branch offices, shall determine the families who are eligible for services purchased under the terms of this contract, and the families to be referred for homemaker services.

2.4 Personnel Policies

- (a) The Contractor shall maintain a documented system of personnel policies, qualifications and job descriptions of each category of staff which are part of the service, and procedures which shall include, but not necessarily be limited to, an orderly system for hiring, dismissal, promotion, demotion, layoff, salary increase, fringe benefits, vacation, sick leave, salary classification plan and other related personnel practices.
- (b) The Contractor agrees to comply with the Civil Rights Act to 1964 and will not:
 - (1) Discriminate against any employee or applicant for employment because of race color, religion, sex or national origin.
 - (2) Treat any client differently from any other client with respect to the total range of services it provides or the criteria it uses in determining eligibility for those services on the grounds of race, color or national origin.

2.5 Billings

Billings will be submitted monthly for the period first through the last day of the month, to be received in the State office not later than the 10th of the following month. Billings shall be in a form approved by the Division supported by forms furnished by the Division. The billings will be based on the actual hours of service extended by county. EXAMPLE: Rate Per Hour \$____ Albany Branch, Lebanon Branch, in Linn County and Rate Per Hour \$____ Corvallis Branch in Benton County, and Total \$_____ for each.

2.6 Computing Payment

- a. If a contract is awarded as a result of this RFP, it is the intention of the Division that payment for services provided will be at the agreed rate per hour of direct services. Direct services will include the following only:
 - (1) Actual time a homemaker provides services directly to the family or individual.
 - (2) Time when direct services have been scheduled, but are interrupted due to a service client requesting the homemaker to leave the assignment early, or the service client is not home or refuses the homemaker entry to the home. However, no double charge shall be made when a homemaker provides service to another service client during the scheduled time described above, and the number of hours claimed will not exceed the number of hours for which the homemaker is paid. Such time will be reported separately from all other time.
 - (3) Reasonable travel time by the most direct route to the clients home after reporting for work and until returning to the point of dispatch, consistent with good planning. Normal commuting time to and from home will not be allowed. Travel time must be reported separately from all other time.
- b. Time of homemaker services will be reported to the nearest half hour per day.
- c. Case staffing, training, administration, supervision, vacation, sick leave, and all other time, except as stated above, will not be included in computing direct service hours worked.
- d. The agency agrees to pay the vendor for 30 minutes per month, per agency client, staffed for documented participation in mutual monthly staffing at the agreed rate per hour for direct services.

2.7 Authority to Operate

The contractor providing professional homemaker service must be incorporated and must have legal authority to operate in the state of Oregon. Evidence of such authority will be made available for review.

2.8 Location and Time of Service

The Contractor will maintain a regular business office with regular office hours in the area of service and will have a supervisor available for consultation to homemakers or to the Division staff whenever homemakers are on duty. Homemaker services may be required generally between 8:00 AM and 5:00 PM with occasional variations in hours.

HOMEMAKER SERVICES

1. Definition:

Homemaker Service is a supportive service provided in conjunction with casework service to families and individuals in their own homes for the purpose of maintaining, strengthening or creating wholesome family living. It is used to increase more adequate functioning through instruction in and demonstration of homemaking and to avert disruption of family units during crisis situations. Homemaker Service must be related to the goals of the sponsoring agency and is operated through a team effort. It is the coordinated effort of the homemaker, the homemaker service supervisor, the social worker and other agency and community resources, such as physicians and nurses, who may be involved in the client's total plan of care. It may be for varying amounts of time per week and may be based upon short or long-range goals according to the needs of families or individuals.

II. Problem Conditions Appropriate for Homemaker Service:

A. Families

1. The parent or parents in the home are unable to function or care for children because of physical or mental illness, physical handicaps or other disabilities.
2. There are indications or complaints of possible child abuse or neglect and, with consistent help in parenting, a crisis can be averted or an evaluation made indicating a plan for the children outside of their own home.
3. The parent or parents are inexperienced or mentally retarded, and need training and demonstration of child care, nutrition, budgeting and housekeeping skills.
4. A child is ill or handicapped, receiving specialized medical treatment and needs special care and the parent requires relief from other duties and care of the other children in the family.

5. Foster children need emergency care because of a child's illness or because a foster parent is ill and needs assistance with the care of children and household management.
6. Motherless families with children need assistance with household tasks, supportive guidance, and instructions.
7. A child(ren) can be returned home from substitute care with the support of a homemaker in the home.

B. Individuals

1. Adults who are at risk of institutionalization as a result of health and/or social problems.
2. Adults who need protection for lack of concerned relatives or caring others and who are unable to manage alone without hazard to themselves or others.
3. Adults who require homemaking and/or personal services upon return home from acute or long-term care facilities.
4. Adults who experience loss of a spouse and whose ability to maintain their independent living situation in such an adjustment period can be strengthened by the services of a homemaker.

III. Services Provided by Homemakers:

The major responsibility of the Homemaker Service is to sustain homes during a family or individual crisis and/or improve homemaking, child care or self-care practices. The services are to:

- A. Instruct family members or individuals in basic household management and/or self-care.
- B. Teach/demonstrate basic skills in the care of children.
- C. Assume responsibilities for child care, household management and homemaking tasks as needed in instances where parental or individual capacity is limited.

- D. Act as a role model for the family or individual including providing positive emotional support to aid in the maintenance of the family or individual.
- E. Where possible, to preserve, promote and/or create positive family/child interaction.
- F. To share the responsibility with the family or individual and service worker for identification of problems and other areas of need.

IV. Personal and Professional Service:

The Personal and professional aspect of this service lies with the combined ingredients of the service working as a whole entity. The personal and professional nature of the functions required of homemaker providers includes:

- A. The work of the professional homemaker program supervisor (MSW or suitable equivalent) requires advanced knowledge of human behavior and psychological concepts applied to family interaction and individual functioning. Supervision of the program and training of homemakers by such a person is required.
- B. The professional homemaker supervisor, social worker and social work supervisor provide expert support and guidance of the work of the experienced and trained homemaker. Such work demands a constant exercise of discretion and judgment which is relative to ever-changing complex family interactions and individual social problems. It is not possible to standardize such judgments.
- C. Due to the Fluctuation and kaleidoscopic nature of family or individual functioning and the differing objectives of each family or individual service plan, the output or accomplishments of the work cannot be standardized in relation to a given period of time.

V. General Standards

The Department of Human Resources espouse the standards of the National Council for Homemaker-Home Health Aide Services, Inc. Additional standards and specific expectations may be required by each individual Division providing or purchasing homemaker services.

In order to assure that such standards are met, the Division requires at a minimum that a contractor providing services under contract with a Department agency be approved by a national homemaker service standard setting body, e.g., National Council for Homemaker - Home Health Aide Services, Inc., or present documentary evidence to substantiate that it is in the process of obtaining approval.

VI. Licensing and Program Standards

Payment under this contract is authorized only to Homemaker organizations licensed to do business in the state of Oregon by the Oregon Department of Commerce and approved by PWD. Residential facilities must be licensed by the Oregon Health Division in the event of revocation or suspension of such licensure or certification. In the event of such revocation or suspension continuation of purchase of services by Division will be dictated by procedures under Oregon Law including the Administrative Procedures Act.

HOMEMAKERS

SUMMARY OF LINE ITEM BUDGET

Offeror's Name _____ Service Area _____

Instructions:

EXPENDITURES - Enter totals from Columns 1 of Line Item Budget

INCOME - Enter direct service hours multiplied by proposed rate per hour

EXPENDITURES

1.	2100	Salaries	\$ _____
2.	2200	Health & Retirement Benefits	_____
3.	2300	Payroll Taxes.	_____
4.	2400	Professional Fees.	_____
5.	2500	Supplies & Materials	_____
6.	2800	Occupancy.	_____
7.	3200	Travel & Expenses.	_____
8.	3300	Conferences & Memberships.	_____
9.	3600	Equipment Rental	_____
10.	3700	Insurance, Taxes & Depreciation.	_____
11.	4300	Equipment.	_____
12.	5900	Other.	_____
GRAND TOTAL EXPENDITURES			\$ _____
13.	INCOME (Direct Service Hours times Rate per Hour)		\$ _____
14.	Income Minus Expenditures		\$ _____

HOMEMAKER LINE ITEM BUDGET

Offeror's Name _____ Service Area _____

IMPORTANT: For each line item budgeted for the Proposal, show in the columns indicated:

- Column 1. The amount budgeted for the Proposal
 Column 2. The amount of the Offeror's total budget for the same line item for the same period of time. (Entries in Column 2 are required only when entries are made in Column 1)
 Column 3. The percentage which the amount in Column 1 is to the amount in Column 2.

	1	2	3
	Proposal	Total	
	Amount	Line Item	Percent-
		Amount	age
2100 SALARIES			
2110 Professional Staff.	\$ _____	\$ _____	_____
2150 Clerical Staff.	_____	_____	_____
2190 Other (homemakers).	_____	_____	_____
Total Salaries	\$ _____	\$ _____	
2200 EMPLOYEE HEALTH & RETIREMENT BENEFITS			
2210 Health Benefit Plans.	\$ _____	\$ _____	_____
2220 Retirement Plans.	_____	_____	_____
2290 Other Benefits (Itemize).	_____	_____	_____
Total Benefits	\$ _____	\$ _____	
2300 PAYROLL TAXES, ETC.	\$ _____	\$ _____	_____
Total Staff Compensation - (2100 + 2200 + 2300)	\$ _____	\$ _____	
2400 PROFESSIONAL FEES			
2410 Attorney Fees	\$ _____	\$ _____	_____
2430 Auditing & Accounting Fees. . .	_____	_____	_____
2440 Psychiatric Psychological Evaluation	_____	_____	_____
2450 Professional Consultation . . .	_____	_____	_____
2490 Other (Itemize)	_____	_____	_____
Total Professional Fees. . .	\$ _____	\$ _____	

		<u>Amount</u>	<u>Amount</u>	<u>age</u>
2500	SUPPLIES AND MATERIALS			
2510	Office Supplies & Expenses (Includes Postage and Shipping) . .	\$ _____	\$ _____	_____
2520	Building & Ground Supplies. . .	_____	_____	_____
2530	Medical Supplies.	_____	_____	_____
2540	Recreation & Craft Supplies . .	_____	_____	_____
2550	Food.	_____	_____	_____
2560	Subscriptions & Reference Publications	_____	_____	_____
2580	Printing.	_____	_____	_____
2590	Other (Itemize)	_____	_____	_____
	Total Supplies	\$ _____	\$ _____	

2800 OCCUPANCY (Buildings & Grounds)

2810	Rent.	\$ _____	\$ _____	_____
2820	Telephone & Telegraph	_____	_____	_____
2830	Utilities	_____	_____	_____
2840	Care of Buildings & Grounds . .	_____	_____	_____
2850	Building Equipment & Furnishings - Maintenance.	_____	_____	_____
2870	Interest on Mortgage.	_____	_____	_____
2890	Other (Itemize)	_____	_____	_____
	Total Occupancy.	\$ _____	\$ _____	

3200 TRAVEL & AUTO EXPENSES (Other than to Conferences)

3210	Mileage Allowance (Estimated Mileage Times Rate per Mile). \$	\$ _____	_____
3220	Auto Rental/Lease	_____	_____
3250	Vehicles Operating Costs.	_____	_____
3280	Auto Insurance.	_____	_____
3290	Other (Itemize)	_____	_____
	Total Travel & Auto Expenses \$	\$ _____	

3300 CONFERENCES & MEMBERSHIPS

3310	Travel Expenses	\$ _____	\$ _____	_____
3320	Annual Meetings	_____	_____	_____
3330	Lodging	_____	_____	_____
3340	Meals	_____	_____	_____
3350	Registration.	_____	_____	_____
3360	Membership Dues	_____	_____	_____
3370	Other (Itemize)	_____	_____	_____
	Total Conferences & Membership	\$ _____	\$ _____	

	1	2	3
	Proposal	Total	Percent-
	Amount	Line Item	age
	Amount	Amount	
3600 EQUIPMENT RENTAL.	\$ _____	\$ _____	_____
3700 INSURANCE, TAXES & DEPRECIATION			
(Exclude Auto Insurance)			
3710 Property.	\$ _____	\$ _____	_____
3720 Liability (including Bonding) . . .	_____	_____	_____
3730 Depreciation.	_____	_____	_____
3740 Other (Itemize)	_____	_____	_____
Total Insurance, Taxes &			
Depreciation	\$ _____	\$ _____	
4100 ORGANIZATION DUES	\$ _____	\$ _____	_____
(Do not Duplicate 3360)			
4300 EQUIPMENT & OTHER CAPITAL EXPENDITURES			
4310 Agency Vehicles - Purchases	\$ _____	\$ _____	_____
4320 Office Equipment.	_____	_____	_____
4330 Furnishings & Equipment	_____	_____	_____
4360 Training Equipment.	_____	_____	_____
4370 Food Service Equipment.	_____	_____	_____
Total Equipment & Other			
Fixed Assets	\$ _____	\$ _____	
900 MISCELLANEOUS (Itemize)			
A.	\$ _____	\$ _____	_____
B.	_____	_____	_____
C.	_____	_____	_____
D.	_____	_____	_____
E.	_____	_____	_____
Total Miscellaneous	\$ _____	\$ _____	
GRAND TOTAL ALL EXPENSES.	\$ _____	\$ _____	

We certify that the above was prepared in good faith and that all costs are rea and necessary.

Name of Person Preparing Budget

Signature

I

Signature

Itemized Statement of Building Repairs and Replacement

Proposed 7/1/76 - 6/30/77	
Items	Amount
Total of items over \$100.00	\$
Total of items less than \$100.00	

E-19

POSITION Each position should be listed separately	Percentage of Full Time Allocated to Proposed Services	Salary Amount Allocated to Proposal	Hourly Rate

TOTAL

BASIS NATIONAL STANDARDS

for

Homemaker-Home Health Aide Services

- I. The Agency Shall Have Legal Authorization to Operate. (RFP 2.7)
- II. There Shall Be An Appropriate Duly Constituted Authority In Which Ultimate Responsibility and Accountability are Lodged. (Generally covered under RFP 2.7)
- III. There Shall Be No Discriminatory Practices Based On Race, Color Or National Origin: And The Agency Either Must Have Or Be Working Toward An Integrated Board, Advisory Committee, And Homemaker-Home Health Aide Services Staff, And Clientele. (General Provisions 2.10)
- IV. There Shall Be Designated Responsibility For The Planning And Provision Of Financial Support To At Least Maintain The Current Level of Service On A Continuing basis (Covered Generally under RFP 1.14)
- V. The Service Shall Have Written Personnel Policies; A Wage Scale Shall Be Established For Each Job Category. (RFP 1.19 and 2.4)
- VI. There Shall Be A Written Job Description For Each Job Category For All Staff And Volunteer Positions Which Are Part Of The Service. (RFP 2.4)
- VII. Every Individual And/Or Family Served Shall Be Provided With These Two Essential Components Of The Service:
 - A. Service Of A Homemaker-Home Health Aide And Supervisor
 - B. Service Of A Professional Person Responsible For Assessment And Implementation Of A Plan Of Care. (RFP 2.2 and Exh. I)
- VIII. There Shall Be An Appropriate Process Utilized In The Selection Of Homemaker-Home Health Aides. (RFP 2.4)
- IX. There Shall Be: A) Initial Generic Training For Homemaker-Home Health Aides Such As Outlined In The National Council For Homemaker Services' Training Manual; B) An On-Going In Service Training Program For Homemaker-Home Health Aides. (RFP 1.15 and 1.17)
- X. There Shall Be A Written Statement Of Eligibility Criteria For The Service. (RFP 2.3)
- XI. The Service, As An Integral Part Of The Community's Health And Welfare Delivery System Shall Work Toward Assuming An Active Role In An On-Going Assessment Of Community Need And In Planning To Meet These Needs Including Making Appropriate Adaptations In The Service. (Generally covered under RFP 2.2)
- XII. There Shall Be An On-Going Agency Program Of Interpreting The Service To The Both Lay And Professional. (Generally covered under RFP 2.2)
- XIII. The Governing Authority Shall Evaluate Through Regular Systematic Review Aspect Of Its Organization And Activities In Relation To The Service's Purpose And To The Community Needs. (Generally covered under RFP 1.8 and 2.2)
- XIV. Reports Shall Be Made To The Community And To The National Council for Home Health Aide Services, As Required (Generally covered under RFP 1.1)

GENERAL PROVISIONS1. Extent of Agreement

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract, shall be deemed to exist or to bind any of the parties hereto.

2. Approval by Executive Department

This Contract and any amendments to this Contract shall not become effective until approved by the Executive Department, State of Oregon.

3. Payment as Sole Monetary Obligation of the Division

Payment as provided herein shall be the sole monetary obligation of the Division. Unless otherwise specified, the responsibility for payment of all federal and state income taxes, and any other charges imposed by law upon employers shall be the sole responsibility of the Contractor.

4. Licensing and Program Standards

The Contractor agrees to comply with all applicable state, county, or municipal standards for licensing, certification, and operation of required facilities; and any other standards or criteria (as described in this Agreement and attached exhibits) established by the Division to assure quality of services. Part 4.

5. Contractor-Client Relationship

The Contractor will establish a system through which a family member may present grievances about the operation of the Contractor's service program. At the time arrangements are made for the Contractor's services, the Contractor will advise the recipients of this provision. The Contractor will notify the Division of all grievances which it is not able to resolve and will process the grievances as directed by the Division.

6. Safeguarding of Client Information

The use or disclosure by any party of any information concerning a recipient of services purchased under this Contract, for any purpose not directly connected with the administration of the Division's or the Contractor's responsibilities with respect to such purchased services, is prohibited except on written consent of the Division, the recipient, his attorney, or his responsible parent or guardian.

7. Civil Rights Act of 1964

The Contractor agrees to comply with the Civil Rights Act to 1964 and will not:

- a. Discriminate against any employee or applicant for employment because of race color, religion, sex or national origin.

- b. Treat any client differently from any other client with respect to the total range of services it provides or the criteria it uses in determining eligibility for those services on the grounds or race, color or national origin.

8. Fiscal Responsibility, Records, Controls, Reports, and Monitoring Procedures

The Contractor agrees to maintain books, records and documents, and accounting procedures and practices which properly reflect all direct and indirect costs expended in the performance of this Contract. These records shall be made available at all reasonable times to Federal, State and other personnel duly authorized by the Division. The Contractor agrees to collect statistical data of a fiscal nature on a regular basis and to make fiscal statistical reports at times prescribed by, and on forms furnished by, the Division. The Contractor agrees to include these requirements in all approved subcontracts and assignments.

When included in the Contractor's approved budget, or separately funded under this Contract, the Contractor agrees to submit to the Division a report of a fiscal audit of its financial records in accordance with the Division's instructions.

9. Program Records, Controls, Reports, and Monitoring Procedures

The Contractor agrees to maintain program records including statistical records, and to issue reports as identified in this Contract. The Contractor also agrees that a program and facilities review, including meetings with consumers, review of staffing and job descriptions, and meetings with any staff directly or indirectly involved in the provision of services -- may be conducted at any reasonable time by State and Federal personnel and other persons duly authorized by the Division. The Contractor agrees to include these requirements in all approved subcontracts and assignments.

10. Retention of Records

The Contractor agrees to retain all books, records, and other documents relevant to this agreement for three years after the end of the fiscal year during which they were created and any longer period which may be required to complete any audit and resolve any pending audit findings. The Contractor agrees to make these documents available to Federal auditors and all other persons authorized by the Division.

11. Subcontracting

The Contractor shall not enter into any subcontracts for any of the work contemplated under this Contract without obtaining prior written approval from the Division (which approval shall be attached to the original Contract). Prior written approval shall not be required for the purchase by the Contractor of articles, supplies, equipment and services which are incidental but necessary for the performance of work required under this Contract. No provision of this clause and such approval by the Division of any subcontract shall result in obligations of the Division in addition to the total agreed upon

12. Renegotiation or Modification

Any alterations, variations, modifications, or waivers of provisions of this Contract shall only be valid when they have been reduced to writing, duly signed, approved as required by the Contractor and the Division and attached to the original of this Contract.

13. Excuses for Non-Performance

Neither party hereto shall be held responsible for delay or failure to perform hereunder when such delay or failure is due to fire, flood, epidemic, strikes, acts of God or the public enemy, unusually severe weather, legal acts of the public authorities, or delays or defaults caused by public carriers, which cannot reasonably be forecast or provided against. Either party may terminate the contract, effective with the giving of written notice, after determining such delay will reasonably prevent successful completion of performance in accordance with the terms of the contract. If the contract is terminated, the obligation of the Division shall be limited to payment for services provided prior to the date of termination.

14. Termination by Mutual Consent and by Either Party

This Contract may be terminated by mutual consent of both parties; or by either party upon 60 days notice, in writing and delivered by certified mail or in person.

The Division may terminate this Contract effective upon delivery of written notice to the Contractor, or at such later date as may be established by the Division, under any of the following conditions:

- a. If reimbursement to the Division from Federal, State or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. When possible, and when agreed upon, the Contract may be modified to accommodate a reduction in funds.
- b. If Federal or State laws, regulations or guidelines are modified or changed in such a way that the services are no longer allowable or appropriate for purchase under this Contract.
- c. If the services under this Contract are no longer required or are not being obtained.
- d. If any certificate or license which the Contractor is required by law or regulations to hold in order to provide the services under this contract is revoked, or expires and is not renewed, for any reason.

Any such termination shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination, except that all costs under the contract shall not exceed the total amount of the contract.

15. Termination for Default or Breach of Contract.

The Division by written notice to the Contractor of default or breach of contract may terminate the whole or any part if this agreement:

- a. If the Contractor fails to provide services called for by this Contract within the time specified herein or any extension thereof; or
- b. If the Contractor fails to perform any of the other provisions of this Contract, or so fails to prosecute the work as to endanger performance of this Contract in accordance with its terms, and after receipt of written notice from the Division, fails to correct such failures within 10 days or such longer period as the Division may authorize.

The rights and remedies of the Division provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

16. Waiver of Default

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of the Contract shall not be deemed, to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Contract unless stated to be such in writing, signed by and authorized by a representative of the Division, and attached to the original Contract.

17. Indemnification

The Contractor agrees that it will, at all times during the term of this Contract, indemnify and hold harmless the Division against any and all legal liability, loss, damages, costs or expenses which the Division may sustain, incur or be required to pay (1) by reason of any person's suffering bodily injury, death or property loss or damage either while participating in or receiving from the Contractor the care and services to be furnished by the Contractor under this Contract or while on premises owned, leased, or operated by the Contractor, or while being transported to or from said premises in any vehicle owned, operated, leased, chartered, or otherwise contracted for by the Contractor or any officer, agent or employee thereof, or (2) by reason of any person causing injury to or damage to the property of another person during any time when the Contractor or any officer, agent or employee thereof has undertaken or is furnishing the care and services called for under this Contract provided, however, that the provisions of the paragraph shall not apply to liabilities, loss, charges, costs or expenses caused by or resulting from the acts or omissions of the Division or any of its officers, employees, agents or representatives.

18. Insurance

The Contractor agrees that it will at all times during the term of this Contract have and keep in force a legal liability insurance policy (policies) issued by a company authorized to transact business in the State of Oregon with limits of liability provided therein of at least \$50,000 for property damage sustained by any one person, \$100,000 for injury and/or damages to any one person, and \$300,000 for total injuries and/or damages arising from any one occurrence. Prior to or upon the execution of this Contract, the Contractor shall furnish the Division with written verification of the existence of such liability insurance policy (policies). Such insurance policy (policies) shall not be cancelled or restricted by the Contractor 60 days prior notice to the Division. In the event of any unilateral change of insurance company of any insurance pol

Part 3

referred to in this paragraph, the Contractor will as soon as practicable notify the Division verbally and in writing as to the company's action. In the event of any action, suit or proceeding brought against the Division upon any matter herein indemnified against, said Division shall as soon as practicable cause notice in writing thereof to be given to the Contractor by certified mail.

19. To the extent that documents requiring compliance are referenced, but not attached the parties have read the documents.

20. Eligibility and Case Planning

The Division, through its branch office, is responsible for the determination of eligibility for all persons for whom the Division purchases services under this contract. The Division shall assign a staff person to be liaison with the Contractor and carry out responsibilities as set forth. The Contractor agrees to include the designated Division liaison and/or the case responsible worker in decisions regarding case planning; changes in services and location of services; and to notify the Division of any significant events which may alter the services planned.

Division and Contractor shall be allowed sufficient time to plan for and arrange alternate placement situations for persons who are considered by either or both parties inappropriate or incapable of continuing in the program. In any case, this time period shall not exceed 30 days following written notification by the other party. Immediate replacement of persons may be arranged with the designated liaison staff directly.

21. Source of Funds

Payment under this contract includes state funds and federal matching funds as authorized by the State Legislature.

22. The Contractor meets applicable state or federal standards for the services being provided as specified in 45 CFR 228.

BERNARD CZESLA
CHIEF DEPUTY

OWEN K. KUNS
EDWARD K. PURCELL
RAY H. WHITAKER

KENT L. DECHAMBEAU
ERNEST H. KUNZI
STANLEY M. LOURIMORE
SHERWIN C. MACKENZIE, JR.
ANN M. MACKAY
EDWARD F. NOWAK
RUSSELL L. SPARLING
PRINCIPAL DEPUTIES

3021 STATE CAPITOL
SACRAMENTO 95814
(916) 443-3037

107 SOUTH BROADWAY
LOS ANGELES 90012

Legislative Counsel of California

GEORGE H. MURPHY

Sacramento, California

October 21, 1976

Honorable Mike Cullen
5144 State Capitol

Medi-Cal - #15657

Dear Mr. Cullen:

QUESTION

You have asked whether it is mandatory that county bills for Medi-Cal services be processed by a fiscal intermediary.

OPINION

It is mandatory that county bills for Medi-Cal services be processed by the fiscal intermediary, except for those bills that the State Department of Health has determined are not feasible to process through a fiscal intermediary.

ANALYSIS

The Director of Health prescribes the policies to be followed in the administration of Medi-Cal (Sec. 14000 et seq., W. & I.C.) and may limit the rates of payment for Medi-Cal services, and is authorized to adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions of the statutory provisions relating to Medi-Cal (Sec. 14105, W. & I.C.).

Section 14104.3 of the Welfare and Institutions Code requires the department, to the extent feasible, to enter

GERALD ROSS ADAMS
DAVID D. ALVES
MARTIN L. ANDERSON
PAUL ANTILLA
JEFFREY D. ARTHUR
CHARLES C. ASBILL
JAMES L. ASHFORD
JERRY L. BASSETT
JOHN CORZINE
BEN E. DALE
CLINTON J. DEWITT
C. DAVID DICKERSON
FRANCES S. DORBIN
ROBERT CULLEN DUFFY
CARL NED ELDER, JR.
LAWRENCE H. FEIN
JOHN FOSSETTE
HARVEY J. FOSTER
HENRY CLAY FULLER III
ALVIN D. GRESS
ROBERT D. GRONKE
JAMES W. HEINZER
THOMAS R. HEUER
EILEEN K. JENKINS
MICHAEL J. KERSTEN
L. DOUGLAS KINNEY
VICTOR KOZIELSKI
DANIEL LOUIS
JAMES A. MARSALA
DAVID R. MEEKER
PETER F. MELNICOE
MIRKO A. MILICEVICH
ROBERT G. MILLER
JOHN A. MOGER
VERNE L. OLIVER
EUGENE L. PAINE
TRACY O. POWELL, II
MARGUERITE ROTH
MARY SHAW
WILLIAM K. STARK
JOHN T. STUDEBAKER
BRIAN L. WALKUP
THOMAS D. WHELAN
JIMMIE WING
CHRISTOPHER ZIRKLE
DEPUTIES

into nonexclusive contracts providing arrangements under which funds available for Medi-Cal shall be administered and disbursed to providers of health care.

Section 14104.3, by requiring the director to enter into nonexclusive contracts for health care services, confers no discretion upon the director if such contracts are to some extent feasible (Morris v. Williams, 67 Cal. 2d 733, 757). "Feasible" means capable of being successfully done (Morris v. Williams, supra; Mastorgi v. Valley View Farms, 83 Atl. 2d 919).

Any individual, partnership or association, corporation, or institution contracting with the department for the performance of fiscal services related to the Medi-Cal program is referred to as a fiscal intermediary (Sec. 50011, Title 22, Cal. Adm. C.).

Thus, to the extent feasible, the department is required to contract with fiscal intermediaries for the processing and payment of county and other Medi-Cal bills.

Thus, it is our opinion that it is mandatory that county bills for Medi-Cal services be processed by the fiscal intermediary, except for those bills that the department has determined are not feasible to process through the fiscal intermediary.

Very truly yours,

George H. Murphy
Legislative Counsel

By *Mary Shaw*
Mary Shaw
Deputy Legislative Counsel

MS:smp

Office of the Auditor General

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
Secretary of State
State Controller
State Treasurer
Legislative Analyst
Director of Finance
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
California State Department Heads
Capitol Press Corps